



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#8

APPLICANT(S): SHAHAR, Menashe et al. EXAMINER: SHAW, JEANNINE SHAWNA

SERIAL NO.: 09/987,685 GROUP ART UNIT: 3737

FILED: November 15, 2001 Attorney Docket No.: P-3439-US

FOR.: DIAGNOSTIC SYSTEM FOR THE EAR

Commissioner for Patents  
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Sir:

**INFORMATION DISCLOSURE STATEMENT**

Pursuant to 37 C.F.R. §§1.56, 1.97 and 1.98, this Information Disclosure Statement includes Form PTO-1449:

1. ☒ listing documents including patents, publications, and other information for consideration by the Examiner, copies of which are included with this information disclosure statement;
2. ☐ listing documents including patents, publications and other information that have been previously cited or submitted to the Patent Office in prior application U.S. Serial No. \_\_\_\_\_, filed \_\_\_\_\_ which is properly identified and relied on for an earlier effective filing date under 35 U.S.C. 120 for consideration by the Examiner; however, in accordance with 37 C.F.R. 1.98(d), copies of such documents are not included in this information disclosure statement; and/or
3. ☒ listing other information for the Examiner's consideration which was cited in a communication from a foreign patent office in a counterpart foreign application, a copy of which is included with this information disclosure statement.

The information herein cited is only in fulfillment of Applicant(s) duty of candor in disclosing all information brought to Applicant(s) attention. This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the

listed documents are material or constitute "prior art". If it should be determined that any of the listed documents do not constitute "prior art" under United States law, Applicant(s) reserve the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicant(s) further reserve(s) the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

In accordance with MPEP Sections 609 and 707.05(b), it is requested that each and every document cited (including any cited in applicant's specification which is not repeated on the attached Form PTO-1449) be given thorough consideration and that it be cited of record in the prosecution history of the present application by initialing on Form PTO-1449. Such initialing is requested even if the Examiner does not consider it to be prior art for any reason, or even if the Examiner does not believe that the guidelines for citation have been fully complied with. This is requested so that each document becomes listed on the face of the patent issuing on the present application and is evidence that the Examiner has considered the document.

This Information Disclosure Statement is being filed:

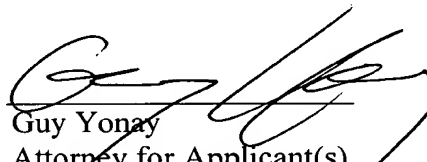
- I) ☐ Within three (3) months of filing the subject Application or entry of the subject Application into the national stage or before mailing of the first Office Action on the merits of the subject Application or a request for continued examination thereof, whichever event occurs last pursuant to of 37 C.F.R §1.97 (b); or
- II) ☒ After the period specified in (I) but before the mailing date of either a final Official Action under 37 C.F.R §1.113 or a notice of allowance under 37 C.F.R §1.311 whichever occurs first and;

1. ☐ the undersigned hereby states that each item of information listed on the Form PTO-1449 was either (i) cited in a communication from a foreign patent office in a counterpart foreign application not more than three (3) months prior to the filing of this Information Disclosure Statement or (ii) not cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, not known to any individual designated in §1.56(c) more than three (3) months prior to the filing of this information disclosure statement; or
2. ☐ the undersigned hereby authorizes the Patent Office to charge the fee in the amount of \$180.00 under 37 C.F.R §1.17 (p) to Deposit Account 05-0649.

- III) ☐ After the period in (I) and (II) but before the payment of the issue fee and,
1. The undersigned hereby states:
- a) ☐ that each item of information cited on the form PTO-1449 was cited in a communication from a foreign Patent Office in a counterpart foreign application not more than three (3) months prior to the filing of this Information Disclosure Statement; or
- b) ☐ that no items of information contained in Form PTO-1449 was cited in a communication from a foreign patent office in a counterpart foreign application, and to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement; and
2. ☐ The undersigned hereby authorizes the Patent Office to charge the Petition fee in the Amount of \$180.00 under 37 C.F.R §1.17 (p) to Deposit Account 05-0649.

**Except** for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 05-0649.

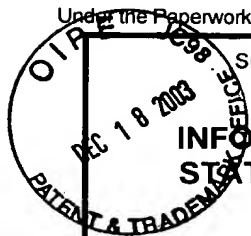
Respectfully submitted,

  
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Attorney for Applicant(s)  
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Dated: December 15, 2003

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STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet	1	of	2	Attorney Docket Number	P-3439-US
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**Complete if Known**

Application Number	09/987,685
Filing Date	November 15, 2001
First Named Inventor	SHAHAR, Menashe et al.
Group Art Unit	3737
Examiner Name	SHAW, SHAWNA JEANNINE
Attorney Docket Number	P-3439-US

**U.S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code <sup>2</sup> (if known)			
	A	5,919,130		Monroe et al.	July 6, 1999	
	B	5,001,556		Nakamura et al.	March 19, 1991	
	C	5,280,788		Janes et al.	January 25, 1994	
	D	6,230,044		Afanasieva et al.	May 8, 2001	
	E	6,379,920		El-Sayed et al.	April 30, 2002	
	F	5,363,839		Lankford	November 15, 1994	
	G	4,882,492		Schlager	November 21, 1989	
	H	5,379,764		Barnes et al.	January 10, 1995	
	I	5,582,168		Samuels, et al.	December 10, 1996	
	J	4,273,110		Groux	June 16, 1981	

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**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Office <sup>3</sup>	Number <sup>4</sup>	Kind Code <sup>5</sup> (if known)				
	K	WO	00/74556			December 14, 2000		<input type="checkbox"/>
	L	WO	99/66830			December 29, 1999		<input type="checkbox"/>
	M	WO	02/039874			May 23, 2002		<input type="checkbox"/>
	N	DE	41 33 493			April 16, 1992		<input type="checkbox"/>
	O	EP	0 043 133			January 6, 1982		<input type="checkbox"/>

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SignatureDate  
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Unique citation designation number. <sup>2</sup> See attached Kinds of U.S. Patent Documents. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

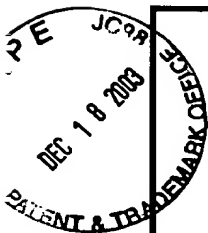
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(use as many sheets as necessary)

Sheet

2

of

2

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First Named Inventor	SHAHAR, Menashe et al.
Group Art Unit	3737
Examiner Name	SHAW, SHAWNA JEANNINE
Attorney Docket Number	P-3439-US

### NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (where appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	P	K .H. Norris. <i>History of NIR</i> , Journal of Near Infrared Spectroscopy (1996), Vol. 4, pages 31-37	<input type="checkbox"/>
	Q	Donald A Burns, Emil W. Ciuczak. <i>Handbook of Near Infrared Analysis</i> (1992), pages 1-18.	<input type="checkbox"/>
	R	PCT Search Report	<input type="checkbox"/>
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